



**Contra
Costa
County**

To: Board of Supervisors
From: David Twa, County Administrator
Date: April 14, 2020

Subject: Settlement of class action titled In Re GSE Bonds Antitrust Litigation (USDC SDNY Case No. 1:19-cv-01704).

RECOMMENDATION(S):

APPROVE and AUTHORIZE the County's participation in a settlement of the class action lawsuit In Re GSE Bonds Antitrust Litigation (USDC SDNY Case No. 1:19-cv-01704) related to alleged price-fixing in government sponsored enterprise bond transactions between January 1, 2009, and January 1, 2019, as recommended by the County Administrator. (100% Incoming Funds.)

APPROVE and AUTHORIZE the Treasurer-Tax Collector, or designee, to complete and file a claim form to seek settlement funds in the litigation, and DIRECT that any funds received be deposited into the County pool (8177).

FISCAL IMPACT:

The County's share of the settlement will depend on the amount of class counsel's attorney's fees, any class representative enhancements awarded by the court, and the amount of claims filed by other class members. Any funds received by the County will be treated as a gain and redeposited into the investment pool.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **04/14/2020** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: April 14, 2020

David Twa, County Administrator and Clerk of the Board of Supervisors

By: Stacey M. Boyd, Deputy

Contact: Tim Ewell,
(925)335-1036

cc:

BACKGROUND:

This board order authorizes the County's participation in a class action settlement in the litigation titled In Re GSE Bonds Antitrust Litigation (USDC SDNY Case No. 1:19-cv-01704). This class action lawsuit alleges that several defendants conspired to fix prices for government sponsored enterprise bonds ("GSE bonds") issued by Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Farm Credit Banks, and Federal Home Loan Banks, between January 1, 2009, and January 1, 2019. This settlement includes the following 13 settling defendants: Barclays Capital, Inc., BNP Paribas Securities Corp., Cantor Fitzgerald & Co., Citigroup Global Markets, Inc., Credit Suisse Securities, HSBC Securities (USA), Inc., J.P. Morgan Securities LLC, Merrill Lynch, Morgan Stanley & Co, LLC, Nomura Securities International, Inc., SG Americas Securities LLC, TD Securities (USA) LLC, and UBS Securities LLC. These defendants have agreed to settle this litigation for payment of approximately \$337 million. (A prior partial settlement was reached with other defendants.)

The County's investment pool is administered by the Treasurer-Tax Collector. The Treasurer-Tax Collector determined that the County investment pool included covered GSE Bond transactions totaling approximately \$79 million in callable bonds and approximately \$745 million in non-callable bonds. (Callable bonds are bonds that can be paid off by the issuer before they reach maturity non-callable bonds cannot be paid off before the maturity date.) All of these bonds had maturity dates under five years, and most bonds had maturity dates under one year.

The County's share of the settlement amount cannot be determined at this time. The amount will depend on the amount of class counsel's attorney's fees, any class representative enhancements awarded by the court, and the amount of claims filed by other class members. However, the settlement notice indicates that the total settlement amount represents approximately 30-70% of all class members' actual damages (without factoring in available treble damages and attorney's fees). If the settlement funds are awarded proportionally, we would expect the County's recovery to be within this range (before deductions for attorney's fees and enhancements).

Any objection to the settlement needs to be filed by April 22, 2020, and, if the County participates in the settlement, its claim form needs to be filed by May 12, 2020. Considering the above potential recovery, and the expense of objecting to the settlement, the County Administrator recommends that the Board authorize the County's participation in the settlement, and that the Board authorize the Treasurer-Tax Collector, or designee, to file a claim form on the County's behalf by the May 12, 2020 filing deadline.

CONSEQUENCE OF NEGATIVE ACTION:

If the County takes no action, the County will not receive any amount from this settlement.